

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

SEP 27 2011

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

BY D. MARK JONES, CLERK
DEPUTY CLERK

KAYSVILLE CITY, a municipal corporation

Plaintiff,

vs.

FEDERAL DEPOSIT INSURANCE
CORPORATION, in its capacity as receiver
for Barnes Banking Company and in its
corporate capacity,

Defendants.

ORDER

Case No. 1:10-cv-139

Judge Dee Benson

Before the court is defendant FDIC-Corporate's Motion to Sever Count 3 from Counts 1-2. (Dkt. No. 19.) The court, having reviewed the memoranda enters the following order.


Courts have broad discretion in considering a motion to sever. In considering a motion to sever the court considers "(1) whether the claims arise out of the same transaction or occurrence; (2) whether the claims present some common question of law or fact; (3) whether settlement of the claims or judicial economy would be facilitated; (4) whether prejudice would be avoided if severance were granted; and (5) whether different witness and documentary proof are required for the separate claims." *In re Methyl Tertiary Butyl Ether (MTBE) Prod. Litig.*, 247 F.R.D 420, 424 (S.D.N.Y., 2007).

The court having reviewed the memoranda, adopts the reasoning in the Defendant's

memoranda and GRANTS the motion to sever.

IT IS SO ORDERED.

DATED this 27 day of September, 2011.



Dee Benson
United States District Judge